

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 423

Case No. 83-11C

March 12, 1984

(Consolidated review and approval of a PUD for lots 310 and 801 in Square 2536 at 2010-2014 Wyoming Avenue, N.W. and 2001-2003 Columbia Road, N.W.)

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on January 26, 1984. At that hearing session, the Zoning Commission considered an application from Ashmeade Associates for consolidated review and approval of a Planned Unit Development (PUD), pursuant to Section 7501 of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application which was filed August 10, 1983, requested consolidated review and approval of a PUD for lots 310 and 801 in Square 2536 at 2010-2014 Wyoming Avenue, N.W., and 2001-2003 Columbia Road, N.W.
2. The application proposed to construct a residential apartment development and requested the Zoning Commission to waive the minimum area requirements of the Zoning Regulations.
3. The subject site is a through lot located on Wyoming Avenue and Columbia Road, N.W. The site encompasses a total land area of approximately 11,341 square feet and will be subdivided into a single lot of record.
4. The subject site is irregularly shaped, with a frontage of eighty-eight feet and maximum depth of 92.56 feet on Wyoming Avenue and a frontage of 65.71 feet and maximum depth of 83.88 feet on Columbia Road.
5. The site is presently developed with two structures fronting on Columbia Road. The portion of the property fronting on Wyoming Avenue is vacant. The existing structures are examples of rich, highly ornamental late

19th-early 20th century residential architecture and are part of an intact row of such structures. The applicant has chosen to preserve and renovate the Columbia Road structures in keeping with the character of the neighborhood.

6. The subject site is split-zoned R-5-C and R-5-B. The site includes approximately 4,686 square feet in the R-5-C District, fronting on Columbia Road, and approximately 6,655 square feet in the R-5-B District, fronting on Wyoming Avenue. The area immediately surrounding the subject site to the east, south and west is zoned R-5-C. Across Wyoming Avenue to the north is R-5-B zoning.
7. The R-5-B District permits matter-of-right medium density development of general residential uses including single-family dwellings, flats, and apartments to a maximum lot occupancy of sixty percent, a maximum floor area ratio (FAR) of 1.8 and a maximum height of sixty feet.
8. The R-5-C District permits matter-of-right medium density development of general residential uses including single-family dwellings, flats and apartments to a maximum lot occupancy of seventy-five percent, a maximum FAR of 3.5 and a maximum height of ninety feet.
9. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines and standards which may exceed or be lesser than the matter-of-right development standards identified above.
10. The PUD standards for the R-5-B District specify a maximum of 3.0 FAR and a ninety foot building height while the PUD guidelines for the R-5-C District specify a maximum of 4.0 FAR and ninety foot height.
11. The applicant is not requesting a change in zoning for the subject property. Previously, the same applicant filed a request to rezone the Wyoming Avenue property from R-5-B to R-5-C. That application was withdrawn by the applicant in 1979 in Zoning Commission Case No. 78-25.
12. Square 2536, in which the subject site is located, is roughly triangular in shape and bounded by Wyoming Avenue to the north, Connecticut Avenue to the west, Columbia Road to the south, and 20th Street to the east. Connecticut Avenue and Columbia Road meet in a "Y" intersection at the southwest corner of Square 2536 that is accentuated by a mansion known as the Lothrop House, being used by the Government of the Union of

Soviet Socialist Republics. There are two ornate and distinctive apartment buildings facing Connecticut Avenue, one of which is 2029 Connecticut Avenue. A small parking garage with one underground level for the use of 2029 Connecticut Avenue, abuts the subject site to the west along Wyoming Avenue. The Embassy of Gabon at the corner of Wyoming Avenue and 20th Street, is located to the east of the site.

13. The frontage of Square 2536 along Columbia Road is developed with row house type structures, except for the lot immediately next to the USSR government property, which is being used as a parking lot. Across Columbia Road from the site are several high rise apartment buildings, namely, the Wyoming, the Oakland and the Schuyler Arms Apartments.
14. The area in which the subject site is located is generally known as the Kalorama neighborhood, and is developed with a mixture of apartments, row houses, embassies and chanceries. It is convenient to the shopping and employment area on Connecticut Avenue to the south. The Kalorama area is designated as a Category III Historic Place.
15. Sub-section 7501.2 of the Zoning Regulations requires a minimum area of three acres for a PUD in either the R-5-B or R-5-C Districts. However, the Regulations specify that when the Zoning Commission, with the concurrence of the Office of Planning and after public hearing, finds that an application is of exceptional merit and in the best interests of the city or the country, then the Zoning Commission may approve said planned unit development, even though the application does not meet the area requirements of this section. In the present application, the area under consideration is 11,341 square feet. Therefore, the applicant is requesting a waiver from the PUD minimum area requirements.
16. The proposed project will be an exclusively residential building with a maximum total of thirty-one units. Five units will be provided in premises 2003 Columbia Road, a five-story building, two units will be in 2001 Columbia Road, a four-story building, and the remaining twenty-four units will be in a new eight-story structure fronting on Wyoming Avenue, N.W. The structures together will constitute a single building located on a single record lot.
17. The proposed development involves renovation and alteration of two structures located in an R-5-C zone at Columbia Road, and the construction of a new seventy-eight foot high apartment house to be located

in an R-5-B zone at Wyoming Avenue. The two existing structures would be interconnected with the new structure. The interconnection between Columbia Road and Wyoming Avenue allows maximization of the building bulk on the site along Wyoming Avenue.

18. The existing structures on Columbia Road have an FAR of approximately 1.97, substantially less than the 3.5 FAR permitted in an R-5-C District. The apartment house proposed for the vacant Wyoming Avenue frontage would have an effective FAR, if considered separately on that lot alone, of approximately 4.3, substantially above the 3.0 allowed in R-5-B with a PUD. By combining the lots and utilizing a planned unit development, the bulk of the development rights are shifted to the Wyoming Avenue frontage while preserving the structures on Columbia Road. This is accomplished within an overall FAR of 3.41 for the combined properties.
19. The width of Wyoming Avenue including the twenty foot building restriction line on the south side is seventy feet. The 1910 Height Act limits the building height in residential zones on streets over sixty-five feet wide to the street width less ten feet, with a maximum height of ninety feet. Therefore, the building height normally permitted on Wyoming Avenue would be a maximum of sixty feet which is also the maximum height permitted in an R-5-B zone.
20. The subject case involves a consolidated lot extending from one street to another street; i.e., from Columbia Road to Wyoming Avenue. The width of either street can be used for purposes of determining the height of the building under the Act of 1910. The height of the building can also be measured from either street. The proposed building is designed to be approximately seventy-eight feet in height as measured from Wyoming Avenue.
21. The applicant intends to offer a broad range of unit types. One of the units in the new structure will be an efficiency apartment containing approximately 420 net square feet. Eight of the units will be one-bedroom apartments with a typical net size of 774 square feet. The remaining fifteen units will be two-bedroom apartments typically averaging 1,188 square feet in net size. The existing structure at 2001 Columbia Road, N.W. will be renovated to provide two three-bedroom units approximately 2,664 square feet each. The structure at 2003 Columbia Road, N.W. will be renovated to provide five one-bedroom apartments averaging 927 net square feet each. The units may be combined to reduce the total number of units and make

larger units available, depending on market demand. No nonresidential uses are proposed.

22. Thirty-one parking spaces will be provided in a two-level underground parking garage with access from Wyoming Avenue, N.W. The proposed development would provide one parking space for each unit so that no additional on-street parking demand would be created. This is sixteen spaces in excess of the legal requirements. Twenty-nine of the spaces will meet the size requirements of the Regulations. Two spaces will be for compact cars.
23. Wyoming Avenue is a thirty foot wide, two-way local street with a low level of daily traffic. Parking is allowed on both sides of the street, except for two curbside spaces reserved for the Gabonese Embassy on the South side of the roadway.
24. Columbia Road is a fifty foot wide minor arterial with a low level of daily traffic in the vicinity of the site. Parking is controlled under the Residential Parking Permit Program on the west side of the street. Parking is unrestricted on the east side.
25. Twentieth Street is a thirty foot wide local street with a low level of daily traffic. Parking is controlled under the Residential Parking Permit Program on both sides of the street.
26. Connecticut Avenue is a fifty foot wide, four-lane roadway with an average daily traffic volume of approximately 36,000 vehicles. Parking is prohibited on both sides of the street between 7:00 A.M. and 9:30 A.M. and from 4:00 P.M. to 6:30 P.M.
27. The site is served within two blocks by twelve Metrobus routes including the H1, L2, L3, L4, L5, L6, L8, L9, 40, 41, 44, and 46 routes. The Dupont Circle Metrorail station is located approximately one-half mile from the subject property.
28. The applicant has executed and recorded a covenant with the Kalorama Citizens Association (KCA) and Helen P. Kennedy to restrict the use of the subject property to solely residential use, to ensure the design of the project and to regulate construction activities. The applicant filed, for the record, a fully executed copy of the covenant which is binding on all parties.
29. The applicant has indicated in writing to the Minority Business Opportunity Commission (MBOC) its intention to make a good faith effort to award twenty-five percent of the construction related contracts to certified

minority owned and operated businesses and will guarantee to award fifteen percent of such contracts to certified businesses.

30. Pursuant to the Commission's request, subsequent to the public hearing, the applicant filed the following additional information:

- A. Proposed language for a condition in the Zoning Commission Order to ensure compliance with the commitment to MBOC to award a minimum of fifteen percent of the construction related contracts to certified minority businesses;
- B. Revised architectural drawings depicting the matter-of-right building bulk envelope and revisions to the plans as requested by the Commission;
- C. Assurances that each initial prospective purchaser will have an opportunity to purchase at least one parking space;
- D. A legal memorandum addressing the waiver of the land area requirements;
- E. A trash removal plan; and
- F. A posthearing memorandum, dated February 6, 1984, relative to the issue of the waiver of the minimum area requirements. The applicant's reasons for requesting a waiver included the following:
 - (1) The development and superior planning of a difficult infill site in the District with both the Zoning Commission's and the community's design input;
 - (2) The provision of a wide range of housing types, sizes and prices in an exclusively residential building;
 - (3) The renovation and preservation of two existing architecturally significant structures in order to preserve the Columbia Road streetscape;
 - (4) The applicant's commitment to use best efforts to award twenty-five percent of all sub-contracting work during construction to qualified minority businesses who employ City residents;
 - (5) The cooperation between the applicant and

affected citizen groups and individuals to achieve a project that safeguards all community interests such as the use of the site, the design of the site and property values; and

- (6) The recordation of a covenant between the parties to ensure implementation of the community safeguards.

31. The Office of Planning by memorandum dated January 13, 1984, and by testimony presented at the public hearing, recommended approval of the application. The Office of Planning believed that, on balance, the development proposal under a PUD process will provide a superior development solution than would normally be achieved under the matter-of-right development of the site. The Office of Planning reported that the proposal makes good use of a small infill site for housing development. Further, the density transfer makes possible the preservation of the architectural scale and character on Columbia Road, and enhances the economic feasibility of providing the housing and the ample underground parking.
32. The Office of Planning also reported that the applicant has negotiated with the community the issues related to design, landscaping, housing mix, use restrictions and parking over a significant period of time, and through this process has evolved a project that responds favorably in this case to the interests of the community and the District at large. Included in the benefits to the District is the commitment of the applicant to provide contracts and job opportunities for minorities. This is consistent with the policies and objectives of the District. This program has been formally agreed to with the D.C. Minority Business Opportunity Commission (MBOC). It adds a highly significant social benefit to the proposed development, and meets the District's objectives in minority business development and employment.
33. For all of the cited reasons, the Office of Planning believed that the application has exceptional merit and is in the best interests of the District of Columbia and recommended that the three acre minimum area requirement be waived. The Commission concurs with the findings and recommendation of the Office of Planning.
34. The D.C. Department of Transportation (DOT), by memorandum to the Office of Planning dated January 18, 1984, reported that the proposed project would generate approximately 0.35 vehicle trips per dwelling unit, or a total of approximately ten vehicles during the peak

hour. This minimal level will not adversely affect the street system. The number of parking spaces proposed by the applicant is adequate for the residents of the condominium. The parking aisle widths proposed by the applicant are only seventeen feet, which DOT believed was too narrow to allow for safe ingress and egress. The DOT recommended that all aisles in the parking facility be a minimum of twenty feet in width. The Commission notes that the legal requirement for aisle widths is fourteen feet and therefore, the applicant exceeds the requirement and increased aisle widths are not necessary. In all other respects, the Commission concurs with the findings and recommendations of DOT.

35. The D.C. Fire Department, by memorandum to the Office of Planning dated January 17, 1984, reported that the proposed project will not have an adverse affect on the Fire Department's operations. The Commission so finds.
36. The D.C. Department of Consumer and Regulatory Affairs, by memorandum to the Office of Planning dated January 26, 1984, reported that the sediment, erosion control and landscape plans for the project are adequate.
37. Advisory Neighborhood Commission 1C, by written resolution dated January 19, 1984, voted to support the application. The issues and concerns of the ANC that influenced the favorable recommendation included the following:
 - (a) Two important structures at 2001-2003 Columbia Road, part of a row of houses in the 2000 block considered worthy of preservation, would be preserved.
 - (b) The building design for 2010-2014 Wyoming is compatible with surrounding structures and the neighborhood.
 - (c) The project would be for exclusively residential use.
 - (d) There was cooperation with the neighborhood during design development and widespread community support.
 - (e) A covenant would be executed to safeguard neighborhood concerns. Many residents of surrounding buildings signed the covenant.
 - (f) At least one off-street parking space per dwelling unit would be provided, thus not contributing to the shortage of on-street spaces.

- (g) A building would be constructed on a tract that has been vacant for several years and was an eyesore and garbage dump.
38. The ANC noted its concern about the status and disposition of current residents of 2001 Columbia Road, N.W., the only property in the proposed Planned Unit Development that is currently occupied, as more fully set forth in findings 42 and 43. The applicant agreed in a letter to the ANC dated January 9, 1984, to:
- (a) make no interior renovations to the premises to implement approved PUD plans until such time that the tenant's possessory rights to occupancy are determined by Landlord-Tenant Court Case L-T No. L 74993-82;
 - (b) allow the tenant a six to twelve month grace period in which to relocate boarding house business if it wins the case; and
 - (c) accept the amount of rent determined by the Rental Accommodations Act formula for her continued occupancy.
39. Mrs. Helen Porter appeared at the public hearing in opposition to the application. Mrs. Porter operates a rooming house on the subject premises at 2001 Columbia Road, N.W. Mrs. Porter and the applicant are currently litigating her continued occupancy of the structure in D.C. Superior Court. Mrs. Porter and counsel were given an opportunity by the Commission to consult with the Office of Planning and Zoning Secretariat staff to facilitate preparation of a legal memorandum as to the zoning issues relevant to the case. Mrs. Porter's counsel submitted a memorandum into the record which does not address any zoning issues.
40. The Commission finds that it is not the proper agency to decide the dispute between Mrs. Porter and the applicant. The applicant has previously agreed with ANC 1C that it will not make any interior renovations to the premises 2001 Columbia Road, N.W. until such time as Mrs. Porter's possessory rights to occupancy are determined by Superior Court. The applicant has further agreed that if it is successful in the court action, it will allow Mrs. Porter up to twelve months in which to relocate her business. The ANC has formed a special committee to help Mrs. Porter relocate in the neighborhood.
41. The Commission notes that it instructed the Office of Planning to inform the Commission as to whether any other city agencies have made any other policy

decisions as to whether the facility should be allowed to remain in the neighborhood. After contacting the D.C. Department of Human Services, the Office of Planning reported that the facility has a current certificate of occupancy for a rooming and boarding house, no more than six units above first floor. The facility is in compliance with city laws and does not fall into the category of a Community Based Residential Facility, but a rooming and boarding house for which it is licensed.

42. The Commission finds that this site merits sensitive treatment. Development under the PUD process is essential to ensure appropriate development of the site and neighborhood compatibility.
43. As to the concerns of the status and disposition of Mrs. Porter and the other residents of 2001 Columbia Road, N.W., the Commission has taken every measure to ensure consistency of its decision with other city agency decisions relative to the case. The Commission further notes that only the zoning issues relative to the case are before it at this time.
44. The Kalorama Citizens Association (KCA), by letter dated January 10, 1984 and through testimony and a written statement at the public hearing, supported the proposed PUD and associated waiver of the minimum area requirement of the Zoning Regulations.
45. Eight letters from neighborhood residents Joseph P. and Helen Kennedy, James and Margaret Johnston, Paul E. Fry, Chris Middendorf, Virginia H. Knauer, John Peters Irlelan, D.L. and Margaret Wennersten, and Mrs. Elvira B. Moore were filed in support of the application.
46. Mace and Gloria Broide, by letters dated August 6, 1983 and December 22, 1983, opposed the application because of the height of the Wyoming Avenue structure.
47. Based on the applicant's testimony, the position of the Office of Planning, the support of Advisory Neighborhood Commission 1B and the other neighborhood support for the application, the Commission finds that the project is of exceptional merit and is in the best interest of the District of Columbia.
48. As to the concerns of Mace and Gloria Broide relative to the height of the Wyoming Avenue structure, the Commission finds that the proposed height is less than the maximum permitted by the PUD guidelines and is compatible with the heights of other buildings in the neighborhood.

49. The proposed action was referred to the National Capital Planning Commission under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC reported that the planned unit development for Lots 310 and 801 in Square 2536 at 2010-2014 Wyoming Avenue and 2001-2003 Columbia Road, N.W. (Case No. 83-11C) subject to the guidelines, conditions and standards proposed by the Zoning Commission at its public meeting held February 13, 1984, would not adversely affect the Federal Establishment and other Federal Interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The planned unit development process is an appropriate means of controlling development of the subject site since control of the use and site plan is essential to ensure appropriate development of the site and compatibility of the neighborhood.
2. While the proposed planned unit development does not meet the normal three acre minimum requirement of sub-section 7501.2 of the Zoning Regulations, the project is of exceptional merit and in the best interests of the District of Columbia and the application can specifically be approved by the Zoning Commission, pursuant to Paragraph 7501.22.
3. Approval of this consolidated planned unit development application is appropriate because the application is generally consistent with the present character of the area and would introduce housing stock in the area.
4. The application can be approved with conditions which would ensure that the development would not have an adverse impact on the site or the surrounding community.
5. The Commission takes note of the position of Advisory Neighborhood Commission 1C and in its decision has accorded to the ANC the "great weight" to which it is entitled.
6. The approval of the application would promote orderly development in conformity with the entire District of Columbia Zone Plan, as embodied in the Zoning Regulations and Maps of the District of Columbia.
7. The development is consistent with the District of Columbia Goals and Policies Act of 1978, which is the first local element of the Comprehensive Plan for the

National Capital under the Self-Government and
Governmental Reorganization Act.

DECISION

In consideration of the Findings of Fact and the Conclusions of Law herein, the Commission hereby Orders APPROVAL of the consolidated Planned Unit Development for Lots 310 and 801 in Square 2536. The Zoning Commission also hereby waives the three area minimum area request, in accordance with the requests of Paragraph 7501.22. The approval is subject to the following guidelines, conditions and standards:

1. The planned unit development shall be developed under the existing R-5-C and R-5-B Districts. There shall be no change of zoning for the planned unit development.
2. The planned unit development shall be developed in accordance with the plans prepared by the architectural firm of Smith, Segreti, Tepper marked as Exhibits 31 and 53H of the record, as modified by the guidelines, conditions and standards of this order.
3. The site shall be developed with a residential apartment building. The development shall include the preservation and restoration of the facades of the existing buildings at 2001 and 2003 Columbia Road, N.W. The development shall contain a maximum of thirty-one apartment units. Of this total, there shall be a maximum of twenty-four units in the new structure on Wyoming Avenue, and a maximum of seven units in the two existing structures on Columbia Road. The applicant may combine units to make larger units, thereby reducing the number of units.
4. The floor area ratio of the project shall not exceed 3.41, not including roof structures.
5. The height of the new portion of the building on Wyoming Avenue shall not exceed seventy-eight feet.
6. The roof structure on the new portion of the building shall not exceed a height of sixteen feet above the level of the roof upon which it is located and shall not exceed a floor area ratio of 0.03.
7. The percentage of lot occupancy shall not exceed fifty-eight percent.
8. There shall be a minimum of thirty-one parking spaces provided in the two level underground garage. At least one parking space shall be available for sale with each apartment unit until all of the apartment units are initially sold. Twenty-nine spaces shall be at least

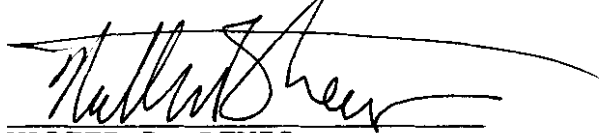
nine feet wide by nineteen feet long. Two spaces may be less than nineteen feet long, but shall be at least sixteen feet long.

9. Landscaping shall be provided as shown on the plan marked as Exhibit No. 53H.
10. A drain shall be installed in the floor of the trash room on the first cellar level.
11. The layout of the two cellar levels may be revised, as long as all the facilities shown on the plans are included and the parking space dimensions are in accordance with the requirements of Condition No. 8, above.
12. The applicant shall make a good faith effort to award at least twenty-five percent of the construction related contracts for the project to Certified Minority Business Enterprises. The applicant shall award at least fifteen percent of such contracts to such Enterprises. The applicant shall provide the Zoning Administrator with evidence, in the form of a letter from the District of Columbia Minority Business Opportunity Commission, that these two conditions have been met prior to the issuance of a certificate of occupancy.
13. Minor architectural modifications may be made to the plans, such as architectural treatment of windows, architectural treatment of the front entrance and the exact shade of the brick.
14. No building permit shall be issued for this planned unit development until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this Order, or amendments thereof, of the Zoning Commission. When the covenant is recorded, the applicant shall file a certified copy of that covenant with the records of the Zoning Commission.
15. The planned unit development approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Zoning Regulations. Construction shall start within three years of the effective date of this Order.

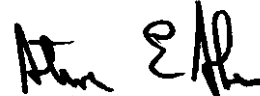
Vote of the Zoning Commission taken at the public meeting on February 13, 1984: 4-0 (Commissioners Walter B. Lewis, Maybelle T. Bennett, George M. White, and Lindsley Williams to approve with conditions - Commissioner John G. Parsons not voting not having participated in the case).

Vote of the Commission taken at the public meeting on March 12, 1984: 4-0 (Commissioners Lindsley Williams, Maybelle T. Bennett, George M. White, and Walter B. Lewis, to adopt as amended - Commissioner John G. Parsons not voting not having participated in the case.)

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this Order is final and effective upon publication in the D.C. Register, specifically on MAR 30 1984.



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat